

Application No. 10/798,738
Amendment dated September 17, 2007
Response to Office Action of July 26, 2007
Attorney Docket No. 04-13259

REMARKS/ARGUMENT

Applicant hereby responds to the Office Action mailed July 26, 2007 and the August 22, 2007 telephone interview between the Examiner and Applicant's representative, Kelly W. Cunningham, Esq.

A. Claim Rejections Under 35 U.S.C. Section 103

1. Claims 38-43, 46, 47-59

The Examiner maintained her rejection of claims 38-43, 46, 47-59, taking the position that the claims are obvious in view of the combined teachings of Perrie, U.S. Patent No. 6,186,505 and Drouhard, U.S. Patent No. 6,520,502. Applicant continues to respectfully disagree.

In the telephone interview, Applicant's representative discussed the then-present independent claims 38, 43, and 51 and the cited prior art, Perrie and Drouhard. Applicant contended and continues to contend that Perrie discloses a game that is essentially the game of Bingo or Keno, as discussed in Applicant's previous response to office action, and that there is no reason to add -- and it is not even feasible to add --to Perrie a game piece that is moved around the perimeter of the game board as in Drouhard. Applicant maintained that Perrie and Drouhard, therefore, could not be combined in any logical manner, let alone to make the Applicant's claims obvious.

Second, in the interview, Applicant's representative also maintained his contention that the combined teachings of Perrie and Drouhard do not disclose any random walk-type movement of a game piece in which the direction of the game piece is dictated by the outcome of observed events. The Supervising Examiner took the position, however, that the then-present Markush claim element (c) of claim 38 would encompass the forward-only movement of the game piece disclosed in Drouhard and that the Applicant would need to positively recite the fact that the direction of the game piece is dictated by the observed event, not just that the dictated point is selected from the points on either side of the game piece.

Applicant respectfully disagrees that the original Markush element (c) would encompass Drouhard, but Applicant nevertheless hereby amends this element of independent claims 38, 43, and 51 to instead recite that the observed event(s) can result in at least two outcomes, that one outcome dictates a first dictated point to which the game piece must be moved, that the second outcome dictates a second dictated point to which the game piece must be moved, and that "the first and second dictated points are in generally opposite directions" from the point on which the game piece currently sits.

Neither Perrie nor Drouhard discloses any such method for many reasons. Drouhard discloses only moving a game piece around the perimeter of a game board in

Application No. 10/798,738
Amendment dated September 17, 2007
Response to Office Action of July 26, 2007
Attorney Docket No. 04-13259

a single predetermined direction a number of steps equal to the numbers taken from a roll of a pair of dice and drawing a card.

No combination of Perrie and Drouhard disclose or make obvious the claimed element that the first and second points to which the game piece must be moved as dictated by the first and second outcomes of the observed event(s) "are in generally opposite directions" from the point on which the game piece currently sits. Applicant therefore respectfully requests reconsideration of the Patent Examiner's rejection in light of the above-listed patent claims as amended.

2. Claim 44

The Examiner also rejected claim 44, taking the position that the claim is obvious in view of the combined teachings of Perrie, Drouhard, and Piper, U.S. Patent No. 5,135,231. Applicant respectfully disagrees with this rejection. Applicant, however, believes that this rejection is in any event rendered moot by the foregoing remarks and by the above-listed amendment to claim 43.

3. Claims 45 and 46

The Examiner further rejected claims 45 and 46, taking the position that the claims are obvious in view of the combined teachings of Perrie, Drouhard, Piper, and Cambardella, U.S. Patent No. 4,070,026. Applicant respectfully disagrees with this

Application No. 10/798,738
Amendment dated September 17, 2007
Response to Office Action of July 26, 2007
Attorney Docket No. 04-13259

rejection as well. Applicant, however, believes that this rejection is in any event likewise rendered moot by the foregoing remarks and amendment to claim 43.

Claims 38-59 remain in this application. Applicant hereby amends claims 38, 43, and 51 only to clarify his invention as originally claimed. Applicant believes that these amendments are not narrowing amendments and introduce no new matter.

In the Examiner's telephone interview with Applicant's representative, the Examiner also took the position that any amendments such as submitted herein would require a request for continued examination. While Applicant disagrees, in the interest of seeking an early allowance of the application, Applicant submits such a request for continued examination and the required fee.

Having responded to each of the Examiner's concerns, Applicant asserts that the application is now in condition for allowance and solicits such action. If a telephone interview will advance the allowance of the application, enabling an Examiner's amendment or other meaningful discussion of the case, Applicant requests the Examiner contact Applicant's representative at the number listed below.

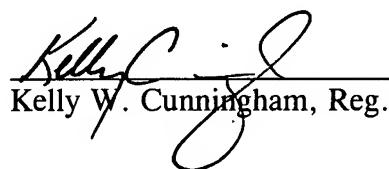
Application No. 10/798,738
Amendment dated September 17, 2007
Response to Office Action of July 26, 2007
Attorney Docket No. 04-13259

It is not believed that any additional fees are due; however, in the event any additional fees are due, the Examiner is authorized to charge Applicant's attorney's deposit account no. 03-2030.

Respectfully submitted,

CISLO & THOMAS LLP

Date: September 17, 2007


Kelly W. Cunningham, Reg. No. 43,570

CISLO & THOMAS LLP
233 Wilshire Boulevard, Suite 900
Santa Monica, California 90401
Tel: (310) 451-0647
Fax: (310) 394-4477
www.cislo.com

T:\04-13259\Response to 7-26-07 office action.DOC

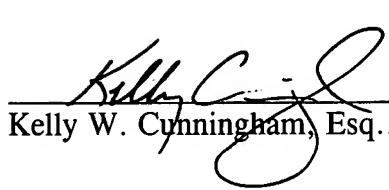
Application No. 10/798,738
Amendment dated September 17, 2007
Response to Office Action of July 26, 2007
Attorney Docket No. 04-13259

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this document, RESPONSE TO OFFICE ACTION, is being filed with the United States Patent and Trademark Office on September 17, 2007 as follows.

MAIL STOP AF
Commissioner for Patents
Post Office Box 1450
Alexandria, Virginia 22313-1450

- BY FIRST CLASS MAIL:** This paper is being deposited with the United States Postal Service with sufficient postage as first class mail to the foregoing addressee.
- BY FACSIMILE:** This document has been submitted via facsimile to the foregoing telefax number at the request of the Patent Examiner.


Kelly W. Cunningham, Esq., Reg. No. 43,570